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May 6, 2021

VIA ECFHonorable Margo K. Brodie
United States District Court
Eastern District of New York
225 Cadman Plaza East
Brooklyn, New York 11201Re: *Federal Defenders of New York, Inc. v. Federal Bureau of Prisons, et al.*, No. 19-cv-00660 (E.D.N.Y.)

Dear Judge Brodie:

I write to update the Court on the parties' ongoing efforts to address several of the important issues raised in this litigation through mediation.

I. Background

I have continued to receive call and videoconference data from the parties. I continue to be in communication with the Federal Defenders, Inc. ("Plaintiff") and their

counsel, and the government and representatives of the Metropolitan Detention Center (“MDC”) and Metropolitan Correctional Center (“MCC”).¹

My communications with the Federal Defenders and the government focused on the following topics:

1. The current status of in-person legal visitation at both institutions.
2. The execution of the current protocol for scheduling and placing attorney-client phone calls at the MDC and the MCC.

II. Telephonic Contact

The parties continue to schedule and facilitate legal phone calls under the Court Protocol for Attorney Calls and Teleconference Hearings. Pursuant to the Protocol, attorney-client calls were scheduled by Federal Defenders for afternoon slots of one-half hour each from 12pm to 3pm at the MDC and 1 to 3:30 pm at the MCC. As Your Honor is aware, the parties have also made efforts to expand legal call hours beyond the times provided in the Protocol. *See* ECF Nos. 70 & 76.

A. MCC

According to the information received from the parties, MCC scheduled 110 calls between April 29 and May 5, 2021. 94 calls were completed, one call was attempted, one call was rescheduled by the institution, five calls we are unaware of their outcome,² and nine calls were not completed for unknown reasons. We are working with the parties to gather more information about these calls. Additionally, Federal Defenders report some technical and scheduling issues this week.

B. MDC

According to the information received from the parties, MDC scheduled 188 calls between April 29 and May 5, 2021. 171 calls were completed, two calls were attempted, one call was rescheduled as the inmate was on a social visit, two calls were cancelled,³ for three calls we are unaware of their outcome,⁴ and nine calls were not completed for unknown reasons. We are working with the parties to gather more information about these calls. Federal Defenders report no call requests pending for more than 48 hours. Additionally, Federal Defenders report some technical and scheduling issues this week.

¹ I held a joint mediation call with the parties on May 4, 2021.

² We did not receive data from the MCC for Tuesday, May 4, and Wednesday, May 5. These calls were reported by the Federal Defenders but their resolution is undetermined.

³ Federal Defenders report one of these calls was not cancelled, rather it did not arrive at the scheduled time frame.

⁴ We did not receive data from the MDC for Tuesday, May 4, and Wednesday, May 5. These calls were reported by the Federal Defenders but their resolution is undetermined.

III. Videoconferencing

A. MCC

According to the information received from the parties, MCC scheduled 34 videoconferences between April 29 and May 5, 2021. 32 VTCs were completed, one VTC we are unaware of its outcome,⁵ and one VTC was not completed for an unknown reason. We are working with the parties to gather more information on both of these VTCs. Additionally, Federal Defenders report some technical and scheduling issues this week.

B. MDC

According to the information received from the parties, MDC scheduled 48 videoconferences between April 29 and May 5, 2021. 40 were completed as scheduled, four VTCs we are unaware of their outcome,⁶ and four VTCs were not completed for unknown reasons. We are working with the parties to gather more information about these VTCs. Federal Defenders report that 10 VTC requests were pending for more than 48 hours. Additionally, Federal Defenders report some technical and scheduling issues this week.

IV. 3500 Materials

At our last status conference we discussed the various points of delay related to inmates' receipt of 3500 material. The government has advised that the EDNY Criminal Division will implement the practice of mailing 3500 material directly to inmates in the institutions as well as to defense counsel. This practice should eliminate the additional time required for defense counsel to receive and transmit 3500 material. I will continue to monitor this situation with the parties.

V. In Person Visiting

The parties have advised that some visiting rooms at the MDC are currently in use for court ordered discovery review by some inmates. The government advises that other rooms are currently being prepared for this use, which would return full visiting room availability. The parties are also discussing the availability of other rooms for this use while they await materials on order. I will continue to monitor this issue with the parties.

⁵ We did not receive data from the MCC for Tuesday, May 4, and Wednesday, May 5. This VTC was reported by the Federal Defenders but its resolution is undetermined.

⁶ We did not receive data from the MDC for Tuesday, May 4, and Wednesday, May 5. These VTCs were reported by the Federal Defenders but their resolution is undetermined.

Respectfully,

/s/ Loretta E. Lynch
Loretta E. Lynch

cc: Sean Hecker, Kaplan, Hecker & Fink
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